

GARY R. HERBERT

Governor GREG BELL

Lieutenant Governor NEAL T. GOOCH Insurance Commissioner

Insurance Department

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: April 11, 2011

Time: 9:30 AM

Place: East Bldg, Copper Room

MEMBERS
Commission Members

Chair Cortlund G. Ashton, Salt Lake Cnty Co-Chair Garry M. Goodsell, Iron Cnty Dirk Keyes

Canyon W. Anderson, Davis Cnty Jerry M. Houghton, Tooele Cnty

Department Staff

Perri Babalis, AG Counsel Tammy Greening, Examiner Adam Martin, Examiner Suzette Green-Wright, MC Dir. Jilene Whitby, PIO Recorder

Mark Kleinfield, *ALJ* Brad Tibbitts, *P&C Dir.*

<u>AGENDA</u>

General Session: (Open to the Public)

- Welcome and Introductions / Cortlund Ashton, Chair
- Adopt Minutes of March Meeting
- Executive Session If needed (Closed to the Public)
- General Session (Open to the Public)
- Reports
 - Concur with Licensee Report
 - o Concur with Complaint & Enforcement Reports
 - o Request for Attorney Exemption: None
- Administrative Proceedings Action
 - o Pre-Hearing: None
 - Stipulation & Order:
 - Home Abstract & Title Co. Inc.
 - Summit Escrow & Title Insurance Agency, LLC
 - National Title Agency
 - Tyler Cisneros
- Old Business
 - Update on LSI / Suzette

Update in May

- o HB333 Changes to 31A-23a-402(8) "are" to "is."
- o Discuss Comments and Final Actions to R592-15 and Repeal of R592-3, R592-4
- Discuss Comments and Final Actions to R592-14.
- o Discuss Comments and Final Actions to R592-6-4.
- Setting Search Standards / Jerry
- Dual Licensing Discussion Continued / Cort
- O Does an Agency's Surety Bond Cover a Notary?
- Update on Letter to Industry Re: Mobile Notary Performing Escrow Services / Tammy
- o Appointment Process for Two New Members / Brad
- New Business
 - o What is the Function of the Escrow that Requires the License / Canyon
- Other Business from Committee Members
- Adjourn:
- Next Meeting: May 9, 2011, Copper Room

2011 Meetings

Jan. 10	Feb. 14	Mar. 14	Apr. 11	May 9	Jun. 13
Jul. 11	Aug. 8	Sep. 12	Oct. 11	Nov 14	Dec. 12

Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: March 14, 2011 Time: 10am Place: East Bldg, Copper Room MEMBERS

Commission Members

Chair Cortlund G. Ashton, Salt Lake Cnty Co-Chair Garry M. Goodsell, Iron Cnty Dirk Keyes

Canyon W. Anderson, Davis Cnty Jerry M. Houghton, Tooele Cnty

Perri Babalis, AG Counsel Tammy Greening, Examiner Adam Martin, Examiner Department Staff
Suzette Green-Wright, MC Dir.
Jilene Whitby, PIO Recorder

Mark Kleinfield, *ALJ* Brad Tibbitts, *P&C Dir.*

James Seaman Lincoln Scoffield Public Jack Marinello

David

Moore

MINUTES

General Session: (Open to the Public)

• Welcome and Introductions / Cortlund Ashton, Chair Garry excused Cort. He is conducting

- Adopt Minutes of February Meeting
 Canyon motion to approve, Jerry seconded, unanimous
- Executive Session If needed (Closed to the Public)
- General Session (Open to the Public)
- Reports
 - o Concur with Licensee Report

Canyon questioned the name of Maui Title. What kind of message does that send? Motion by Canyon to concur, seconded by Dirk, vote unanimous.

Concur with Complaint & Enforcement Reports
 Canyon said reports were easier to read. Canyon made a motion to concur, seconded by Jerry, vote unanimous.

- Request for Attorney Exemption: None
- Administrative Proceedings Action
 - o **Pre-Hearing**: Summit Escrow

Mark Kleinfield asked Commission if they want to hear this case. Summit has not requested they do it. Canyon made a motion that Mark hear the case, Dirk seconded it, vote unanimous.

- Stipulation & Order: None
- Old Business
 - o Update on LSI / Suzette

LSI is in investigation. Put on the next agenda under Tammy's name.

- Legislation / Suzette
 - HB333, Unfair Inducement: The reference to title has been taken out thanks to Curt Webb. Canyon expressed concern regarding change in the enrolled version starting on line 372 changing "are" to "is". Canyon asked Perri to advise them if this change was neutral or not. Make this an agenda Item.
 - A recorder bill and two real estate bills have passed.
 - HB260, Mechanics' Liens, passed. Allow everyone involved a clear and concise date of priority. First lien starts the clock.
- Discuss Written Comments & Comments from Hearing of R592-15, "Submission of a Schedule of Minimum Charges for Escrow Services"

No written comments have been received. No one in hearing disagreed with rule or suggested changes. March 31, 2011 is end of comment period. During April meeting the Commission will decide if the rule is put into effect or additional changes are to be made.

- File Rule R592-6 for Rulemaking by 3-15-11 & Set Hearing Date & Time for R592-6 & 14 Canyon wanted to make sure underwriters had right to determine insurability. Canyon made a motion to hear R592-6 at 8am and R592-14 at 9am on Monday, April 11.
- o Setting Search Standards / Jerry

Definition of "adequate search" is different from state to state. Timeframes seems to be the most common way to define it. Plant laws also vary greatly. Who certifies a plant? Changes may need to be made to the statute. May need to define Plant. Statute does not require a plant. Some state timeframes go back 30-40 years. The code requires standards to be set. Current indexes should continue to be used. Put this on Old Business. James will advise ULTA of this discussion.

- Dual Licensing Discussion Continued / Cort
 Put on April agenda for Cort to discuss.
- Appointment Process for Two New Members / Suzette
 Jilene will notify the Commission if applications have been filed.

New Business

- What is the Function of the Escrow that Requires the License / Canyon
 - Section 31A-1-301 defines Escrow Agent. Section 31A-23-406 identifies when an escrow officer can perform escrow. We know that an escrow officer needs to be designated by an agency to conduct a real estate closing pursuant to a written real estate agreement.
 - The question is, are mobile notaries performing escrow services? If so, they need to be licensed. Perri reported that the AG representative to the Lt Governor's office has no interest in this issue and asked Perri to take care of it. To control notaries that don't have an insurance license Perri suggested the department issue a Cease and Desist first to warn them, then if they persist, fine them. A member of the public said that if the notary is holding or controlling any document, he or she is acting as an escrow. The notary does not need to explain the document to be in violation.
 - Perri said a letter from the department explaining this could go out to the title industry. It would be especially helpful for agencies that have a notary. All notaries working with or for a title agency must be designated by that agency. Does an agency's fidelity bond cover a notary? Tammy will prepare and send the letter out.
- Other Business from Committee Members
- Adjourn: Jerry made a motion to adjourn and Canyon seconded it.
- Next Meeting: April 11, 2011, Copper Room

		2011 Mi	eeungs		
Jan. 10	Feb. 14	Mar. 14	Apr. 11	May 9	Jun. 13
Jul. 11	Aug. 8	Sep. 12	Oct. 11	Nov. 14	Dec. 12

Title Agency Monthly Report

For the month of March, 2011

New License

Agy_ID 165841	Name TITLE GLIABANTEE A TITLE INCLIDANCE ACE	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
100041	TITE GOADAN EE A TITE INOCHANCE AGE	3/8/2011	3/31/2013			TMR
100041	IIILE GOARANIEE A IIILE INSURANCE AGE	3/8/2011	3/31/2013			TS
165841	TITLE GUARANTEE A TITLE INSURANCE AGE	3/8/2011	3/31/2013			II.
License	License Renewal					
Agy_ID	Name	Issue Date	Expiration Date	l anse Date	Reactivation Date	Qualification
7624	AMERICAN SECURE TITLE INSURANCE AGE	5/16/2002	3/31/2013			TE
7624	AMERICAN SECURE TITLE INSURANCE AGE	5/16/2002	3/31/2013			TS
2992	CAPITOL TITLE INSURANCE AGENCY	5/16/2002	3/31/2013			
2992	CAPITOL TITLE INSURANCE AGENCY	5/16/2002	3/31/2013			TS
6547	MOUNTAIN VIEW TITLE & ESCROW, INC	5/16/2002	3/31/2013			TS
160146	UNITY TITLE LLC	3/4/2009	3/31/2013			TS
6547	MOUNTAIN VIEW TITLE & ESCROW, INC	5/16/2002	3/31/2013			
16271	TRUSTEE'S TITLE & ESCROW LC	3/8/2007	3/31/2013			Ш
16271	TRUSTEE'S TITLE & ESCROW LC	3/8/2007	3/31/2013			TS
6300	UNITED TITLE SERVICES OF UTAH, INC	5/16/2002	3/31/2013			
6300	UNITED TITLE SERVICES OF UTAH, INC	5/16/2002	3/31/2013			TMR
9300	UNITED TITLE SERVICES OF UTAH, INC	5/16/2002	3/31/2013			TS
160146	UNITY TITLE LLC	3/4/2009	3/31/2013			
6547	MOUNTAIN VIEW TITLE & ESCROW, INC	5/16/2002	3/31/2013			TMR

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For the month of March, 2011

New License

Indv ID 1406327	Name LEE FIGURACION-SMITH	Issue Date 03-16-2011	Expiration Date 11-30-2013	Lapse Date	Reactivation Date	Qualification
1452831	NANETTE JAYNE QUINN	03-29-2011	07-31-2013			I 0
1452019	ROGER J SANDERS	03-16-2011	09-30-2013			<u> </u>
1452019	ROGER J SANDERS	03-16-2011	09-30-2013			۲ - ۲ -
1449437	MADISON LYNNE VAN TREESE	03-15-2011	04-30-2013			2 Ц
1451335	WILLIAM BARON	03-28-2011	10-31-2013			, H
1451415	DENICE C CAFFERTY	03-07-2011	12-31-2013			<u>т</u> Е
License Renewal	Renewal					
Indv ID	Name	Issue Date	Expiration Date	l anse Date	Reactivation Data	
38834	MICHELLE CROFTS	05-16-2002	03-31-2013		reactivation Date	Qualification Th
131061	MELYNDA G AIRMET	07-07-5006	03-31-2013			n F
1369988	BURK N BENTON	09-02-2008	03-31-2013			<u>п</u> 6
32735	JENNIFER D BERRIOCHOA	05-16-2002	03-31-2013			<u>5</u> Н
99181	STEFANIE BOWEN	02-26-2004	03-31-2013			— Н
99181	STEFANIE BOWEN	02-26-2004	03-31-2013			۲ - ۲ آ
44544	BRENDA B JOHNSON	05-16-2002	03-31-2013			2 Ц
32713	DONNA E MINER	05-16-2002	03-31-2013			<u>.</u>
33395	KIMBERLY HOLBROOK	05-16-2002	03-31-2013			TS

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License Renewal	Renewal	; ; ;		-		
Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
44695	KATHLEEN J DANIEL	05-16-2002	03-31-2013			<u> </u>
38745	PAUL RAY DAVIS	05-16-2002	03-31-2013			ı ç
141340	IAN S DAVIS	02-16-2007	03-31-2013			M E
141340	IAN S DAVIS	02-16-2007	03-31-2013			S:
100517	MONICA B DEGREY	04-13-2004	03-31-2013) Ц
37897	HUGH C GARNER	05-16-2002	03-31-2013			1 E
45043	REBECCA A GEORGE	05-16-2002	03-31-2013) Ш
82800	REBECCA A HADLOCK	10-22-2002	03-31-2013			
32876	TRAVIS V HATCH	05-16-2002	03-31-2013			ı S
27453	DEBBIE J HEMINGWAY	05-16-2002	03-31-2013) Ц
95271	SHONDA S ROBISON	10-16-2003	03-31-2013			ı Ç
53802	WENDY KAY CIAMPINI	05-16-2002	03-31-2013) <u>н</u>
102285	MARK B NELSEN	06-01-2004	03-31-2013			ı S
49299	STEVEN E JOHNSON	05-16-2002	03-31-2013			у ш
49299	STEVEN E JOHNSON	05-16-2002	03-31-2013			: <u>S</u>
49098	MARY KATHERINE JOHNSTON	05-16-2002	03-31-2013) <u>(</u>
44869	CATHY L JONES	05-16-2002	03-31-2013) <u>Ш</u>
133598	DYLAN ROBERT KELLY	09-01-2006	03-31-2013			Ш
44372	TIM A KRUEGER	05-16-2002	03-31-2013			<u>T</u> E
44372	TIM A KRUEGER	05-16-2002	03-31-2013			TS

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For the month of March, 2011

License	License Renewal			- -		
Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
40307	CHRISTOPHER SCOT MADISON	05-16-2002	03-31-2013			T = T
40307	CHRISTOPHER SCOT MADISON	05-16-2002	03-31-2013			ı S
43406	RICHARD THOMAS MAUGHAN	05-16-2002	03-31-2013) Ш
43406	RICHARD THOMAS MAUGHAN	05-16-2002	03-31-2013			ı v
53802	WENDY KAY CIAMPINI	05-16-2002	03-31-2013			TMB
33395	KIMBERLY HOLBROOK	05-16-2002	03-31-2013			
38548	KEVIN J MECHAM	05-16-2002	03-31-2013			J (7
103002	LISA A NEPOLIS	06-21-2004	03-31-2013) <u>v</u>
45029	REA N OLSEN	05-16-2002	03-31-2013) <u>ш</u>
45029	REA N OLSEN	05-16-2002	03-31-2013			i Ç
44936	JOSEPH C. ORME	05-06-2004	03-31-2013			2 Ц
44936	JOSEPH C. ORME	05-06-2004	03-31-2013			ı v
77239	L SHANE PERKINS	05-15-2002	03-31-2013			2 Ц
87210	JAMIE L PERRY	02-27-2003	03-31-2013			і Щ
38798	BOBBIE ANDERSON RABY	05-16-2002	03-31-2013			! Ц
90705	GINA SMOCK REA	05-29-2003	03-31-2013			<u></u> Н
68998	JAYNE S RICHENS	02-11-2003	03-31-2013			<u>.</u> Н
86689	JAYNE S RICHENS	02-11-2003	03-31-2013			۲ - ۸ ۲
129680	BECKIE CHRISTINE MERLO	06-14-2006	03-31-2013			Э Щ
36199	MATTHEW R WALKER	05-16-2002	03-31-2013			TS 1

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License	License Renewal	5		-		
OI vpul	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Onalification
40575	MICHAEL P CHABRIES	10-22-2004	03-31-2013			SE
36199	MATTHEW R WALKER	05-16-2002	03-31-2013			Э Ц
45932	SUSAN E SELF	05-16-2002	03-31-2013			<u>і</u> Ц
100444	TYLER W YORK	04-12-2004	03-31-2013			a M
100444	TYLER W YORK	04-12-2004	03-31-2013			- Е ш
81344	DAVID J WRIGHT	10-01-2002	03-31-2013			<u> </u>
52035	MICHAEL ALLEN TYMON	03-19-2003	03-31-2013			ј <u>н</u>
95271	SHONDA S ROBISON	10-16-2003	03-31-2013			ј ц
129691	PATRICK C VANDERHOOF	06-06-2006	03-31-2013			- Н
136714	LAURA K TURLEY	11-13-2006	03-31-2013			
106871	KIMBERLY S SMITH	10-06-2004	03-31-2013			- Н Ц
41244	RICHARD L SMITH	05-16-2002	03-31-2013			J Ц
138261	JONATHAN PRESTON THOMAS	01-02-2007	03-31-2013			J (7.
138261	JONATHAN PRESTON THOMAS	01-02-2007	03-31-2013			2 <u>н</u>
36892	CLAUDEEN SUTHERLAND	05-16-2002	03-31-2013			! <u>#</u>
30559	DAVID L STEPHENSON	11-03-2008	03-31-2013			<u> </u>
81236	TALIA A YAMAMOTO	09-09-2002	03-31-2013			ц н
85498	TODD BURTON STANGER	12-24-2002	03-31-2013			ı S
85498	TODD BURTON STANGER	12-24-2002	03-31-2013) <u> </u>
84831	RICHARD THURSTON	12-06-2002	03-31-2013			里

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Late Lice	Late License Renewal			-		
OI vpul	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Orialification
30309	JOY D JORDAN	05-16-2002	03-31-2013			TE
Lapse Licenses	censes					
Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
45535	KELLI L JACKSON	05-16-2002	02-28-2011	3/30/2011		TMR
129652	PAMELA WINKEL	06-07-2006	02-28-2011	3/30/2011		TMB
106905	GERALD D CULWELL	11-10-2004	02-28-2011	3/30/2011		I WI
106531	Hawley Lynn Jimenez	10-12-2004	02-28-2011	3/30/2011		
106389	CYDNEE SMITH	10-06-2004	02-28-2011	3/30/2011		! #
1365625	AARON DEAN LANCASTER	08-11-2008	02-28-2011	3/30/2011		<u> </u>
87155	DAVID ROJAS	02-26-2003	02-28-2011	3/30/2011) <u>(</u>
1371499	CAYLON D. DEPALMA	09-15-2008	02-28-2011	3/30/2011		Э Ц
85064	VALERIE S BOND	12-17-2002	02-28-2011	3/30/2011		TMP
138826	ALLYSON SMITH	07-22-2008	02-28-2011	3/30/2011		TMB
30907	R BROOKE WILLIAMSEN	05-16-2002	02-28-2011	3/30/2011		
38942	MITCHELL MAUGHAN	05-16-2002	02-28-2011	3/30/2011		S &
44274	SCOTT A PAULSON	05-16-2002	02-28-2011	3/30/2011		ρ <u>ν</u>
30907	R BROOKE WILLIAMSEN	05-16-2002	02-28-2011	3/30/2011		2 #
133069	JENNIFER A OLOFSON	08-21-2006	02-28-2011	3/30/2011		

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Lapse Licenses	censes			- -		
Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
35643	ANNE M JOHNSON	05-16-2002	02-28-2011	3/30/2011		TS
38635	DON F COSPER	05-16-2002	02-28-2011	3/30/2011		TS
38942	MITCHELL MAUGHAN	05-16-2002	02-28-2011	3/30/2011		Щ
1365625	AARON DEAN LANCASTER	08-11-2008	02-28-2011	3/30/2011		1 E
40255	Gina P, Anderson	05-16-2002	02-28-2011	3/30/2011		Щ
44274	SCOTT A PAULSON	05-16-2002	02-28-2011	3/30/2011		
6273	ANTONIO D CASELLA	05-16-2002	02-28-2011	3/30/2011		TS
Reinstate	Reinstated License					
OI vpul	Name	Issue Date	Expiration Date	Lapse Date	Beactivation Date	Onalification
77611	SPENCER BRYAN GEARY	05-29-2002	02-28-2013	3/30/2011	3/29/2011	TE
145054	J. RANDALL RICHARDS	06-28-2007	04-30-2012	5/30/2010	3/21/2011	ш
37090	KEVIN HARDMAN	05-16-2002	02-28-2013	3/30/2011	3/14/2011	Ш
106627	AARON CHARLES HANSEN	10-13-2004	02-28-2013	3/30/2011	3/7/2011	<u>ш</u>
77611	SPENCER BRYAN GEARY	05-29-2002	02-28-2013	3/30/2011	3/29/2011	TMB
128110	MATTHEW V FRAZIER	04-27-2006	11-30-2012	12/30/2010	3/7/2011	T W
90726	ROBYNNE C BURGESS	05-28-2003	10-31-2013	11/30/2009	3/16/2011	TMR
36854	MICHAEL H BROWN	05-16-2002	12-31-2012	1/30/2011	3/7/2011	TS
36854	MICHAEL H BROWN	05-16-2002	12-31-2012	1/30/2011	3/7/2011	TE

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Qualification	TE	TS	TE
Reactivation Date Q			3/21/2011
Lapse Date	6/30/2004	5/30/2010	12/30/2010
Expiration Date	06-30-2013	04-30-2012	11-30-2012
Issue Date	05-16-2002	06-28-2007	06-19-2008
Name	TRENT J TAYLOR	J. RANDALL RICHARDS	KIMBERLY BOWLES
Ol vbul	45784	145054	1365735

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	Report
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11 - 11 - 11 - 11 - 11 - 11 - 11 - 11	igations :
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subtotal fundion code																																									
Alleged Violation Alleged Violation	Misappropration of funds; failing to return funds for	Allegation of lender fraud		Soliciting and negotiating without a resident license	Violation of closing instructions	Unauthorized title insurance business	Title agency co-habitation with client	Closing instructions not followed by escrow off. Alternal Uniconsed Activity.	Non-Pymnt of forfieture	Co-Advertising	Co-Advertising	Alleged Unlicensed Activity	Prelim issued w/ incorrect info//Court order conflict	Co-Advertising	Alleged Unicensed Activity	Creating appearance of marketable title	Alleged Unlicensed Activity	Fallure to Disclose Fed Criminal Prosecution	Creating unmarketable title Fiduciary Failure	Failure to return Earnest Monies	Failure to disperse as per Hud-1	Failure to disperse as per Hug-1	Inconsistent App, Prior revocation	Controlled Business	Aleged Unicensed Activity Aleged Unicensed Activity																
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1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	-	+		+			+	+	H	+	+-	H		+	+	-	Н	+	+	Н	× >	+	\vdash	+	\perp	H	0	H	+	+	H	+		\dashv	+	\vdash		+	$\left \cdot \right $	+	
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William St.				\dagger		+	\dagger	\dagger	Н	+	t	H		+	+	Ė	H	\dagger	+		+	-	,	<u> </u>	H	\vdash	+	H	\dagger	-	+	\dagger	Н	+	+	+	+	+	H	+	-
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7622	9/14/09	1/16/10	124	Corrected		-	_	×	-	_	<u> </u>	<u> </u>								الم	+	+	*				<u>*</u>		
37640	9/15/09	2/2/10	140	Private letter														-	×	-					\dagger		_	Failure to file Annu	No licensed escrow or title people working at the agency Failure to file Annual and Controlled Business report for
17331	6/10/09	272/10	237	E-case #2652											×			-	_		+				+	-	\downarrow	Failure to pay Federal an	The year 2008 when due Fallure to pay Federal and State tax liens at time of
28074	1/12/10	2/4/10	33	F case 2621		-	-	-	_	_	-	_				\dagger	\dagger	+	+	+	+	+	-			+	-	closing	
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7496	8/3/09	2/16/10	1 70	No Violation		+	+	+	-	1	1					П	$ \cdot $	H	$\ $	H	×				-		_	Alleged failure to r	Alleged failure to record properly as per REPC
37497	8/3/09	2/16/10	+	No violettion		+	+	+			1	\downarrow	I			×		+	+	-		Н						Possible lender fraud.	lud.
37874	11/16/09		╆	No Violation	 	+	+	+	+	-						×	+	+	+	1	+	+	-		H			Possible lender fraud	nd
27709	9/30/08		Н	No Violation			-		-		-		\prod			\dagger	+	+	+	+	+	× :			-			Sponsorship of event of a client	ent of a client
37825	10/28/09			No Violation			$\ \cdot\ $	H	$\ \cdot \ $			Ц					+	+	+	+	+	< ×	1		+		_	Sponsorship of golf tournament	If tournament
5	8/3/09	01/8/10	- E	Licensed		+	+	×	1	1								H	H	H	-	-			-	+		Unlicensed Title agency	Jency
12121	1/27/40	_	+	NO VICINION		+	+	1	+	4						×			H		-					_		Possible lender fraud	100
813	1/27/10	-	\top	Private letter		+	+	+		1	1	1									H	×			-		L	Marketing violation, donated prize	, donated prize
7906	11/23/10		\top	DESCRIPTION OF STREET		+	+	+	+		+	_				+		+	+		\parallel	×			$ \cdot $			Marketing violation, donated prize	ı, donated prize
	200000		\neg	E-C886 70.38		1	\dashv	4	4	4											_					×		Advertising rehated rates	10000
9	973070	07/8/10	à ;	E case 2637	+	1	+	+	+	1							Н				-	L	L			×		Advertising repated rates	drates
37751	10/8/09	+	_	No Verlendon		+	+	+	+	1						1	+		H			×					_	Sponsorship of golf tournament	foumament
		-	+-			+	+	+	1	+	_			1			+	+	-	$\frac{1}{2}$		×						Sponsorship of golf game	f game
X804	1/4/10	2/22/10	5	Private lotter											***											×		Distribution of mar	Distribution of marketing flyers with fees/premiums lower
38049	1/4/10	2/22/10	64	No Violation															-	-	-				-	,	-	Distribution of mar	Distribution of marketing flyers with fees/premiums lower
72085	1/12/10	2/25/10	1	E-case 2623						-					×		1		+	-	+					×		than what is filed w	than what is filed with the department
T			\dagger			+	+	+	\downarrow	1	1				1	1	\dashv	+	-	-	-							Reports for calend	Reports for calender year 2008 by April 30, 2009
58079	1/12/10	2/25/10	4	Duplicate see 57807				···			-				×			***		····								Failure to timely file	Failure to timely file the 2009 Annual and Controlled
57949	12/7/09	2/25/10	8	No Violation											×	1	\vdash			-	+	-			+	+	_	convey property to	convey property to an LLC. (thereby voiding the Owner's
57807	10/26/00	3006140	1	1		\downarrow	1	+	-	-	_			1	\dagger		+	+	+	+	+	+	1		+		\perp	Policy); Missed tr.	Policy); Missed trust deed during search.
	500000	01.620	\neg	E-Carse Ab24															×							_		Failure to timely file the 2008 Annu Business Report by April 30, 2000	Failure to timely file the 2008 Annual and Controlled Business Report by April 20, 2009
8	5000	3/1/10	2	No Violation	+		-	-	_	\downarrow										H		×		T	-			Allegation of co-ha	Allegation of co-habitation in violation
57592	9/1/09	3/3/10	189 X	No Violation											×													Escrow instructions	Escrow instructions not followed, possible fiduciary
58213	2/25/10	3/10/10	5	No Violation		$\left \cdot \right $	\prod		\prod						T	+	-		-	+	-	×			+	+	1	Violation	of indept
27650	9/17/09	3/10/10	174 E	E-case 2651											×				_	-					+	-		Discussion of the second	i wousile
58259	3/16/10	3722/10	<u>ν</u>	No Violation			H					Ц			×		H			+	+		T		+	+		Allegation of recording a frust de	Frust deed not snowing on HULD Allegation of recording a trust deed incorrective
58287	3/24/10	3/25/10	-	#2659											×					_	_							Those of Occursion	
58132	2/1/10	3/29/10	+	No Violation		-		4							×		$\ $			-	-	-			+	\downarrow		Did not pay off time	Did not pay off time share fees at closing
58240	3/10/10		z 2	No Violetion		-	1	\downarrow	-	1				1		+		\parallel	$\left \cdot \right $	H	Н	$\ $				×		Allegation of charg	Allegation of charging below filed esrow rates
57724		3/31/10	1	No Violation		1	1	1	-	1	_			T		 x	+	+	+	+	+	\downarrow	1	1	+	×		Charging below filed escrow rates	d escrow rates
21111	10/19/09		163 N	No Violation			-		ļ	_				T	T	+	+	×	+	+	+	-	1	1	+			Money held in escr	Money held in escrow to pay lien, Lien never paid
57778	10/19/09 3/31/10	_	53 N	No Violettion		Ц	Ц	Ц	Ц	\sqcup	Ц			П			+	×	-	+	+	1	Ţ	\dagger	\dagger	+	1	Recording / easment issues	Of issues
																			-	1	-				-			Trecording / Basine	H ISSUES

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Title Insurance Investigations Closed Investigation Summary Report

	Refusal to release earnest money to seller when buyer	defalted on contract	Possible fender fraud, short sale issues	Possible mishandling of escrow money and the HUD
Closed Investigation Summary Report	×	,	· · · · · · · · · · · · · · · · · · ·	
	37571 8/27/09 3/31/10 216 No Violation	17579 8/31/09 3/31/10 212 No violation	37601 9/2/09 3/31/10 210 No Violation	

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Title Insurance Consumer Complaints

Open and Closed Consumer Complaint Summary Report

7	CSA	Complaint	Date closed	Date Open	Case #
JUSTIFIED	Meldee	HO premium not paid at closing	2/25/2010	1/25/2010	58109
UNJUSTIFIED		title complaint, feels title company didn't uncover/disclose hazards for clear title and sale of home - flood insurance requirements		2/22/2010	58202
UNJUSTIFIED	Meldee	Condo Ins not pd at closing		5/19/2010	58434
Withdrawn	Sandy	Mechanicsliens recordered on property after closing	8/10/2010	8/10/2010	58624
UNJUSTIFIED	Meldee		11/16/2010	11/8/2010	58832
UNJUSTIFIED	Meldee			11/15/2010	58852
UNJUSTIFIED	Sandy	not supplying title ins or deed to the property	12/9/2010	11/18/2010	58865
-	Sandy	Liens wer not cleared at closing	1/10/2011	1/3/2011	59045
UNJUSTIFIED	Meldee	Trust Deed not recorded	2/9/2011	1/6/2011	59067
JUSTIFIED	Meldee	Property not recorded properly by agent	2/1/2011	2/1/2011	59162
Journal	Meldee	title complaint		3/7/2011	59272

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Title Insurance Consumer Complaints
Open and Closed Per Month Report

	Open	Closed		Open	Closed
January	1	0	January	2	1
February	1	1	February	1	1
March	3		March	15	11
April	5	2	April		
May	0		May		
June	1		June		
July	0		July		
August	2		August		
September	1		September		
October	0		October		
November	1		November		
December	0		December		
Total 2008	15		Total 2011	18	13
January	0		January		monda Savida
February	0		February		
March	0	0	March	1975	
April	0		April		
May	1		May		
June	0	1	June		
July	0		July		
August	1	0	August		
September	0		September		
October	0	1	October		
November	0		November		
December	1		December		
Total for 2009	3		Total for 2012	0	0
January	1		January		
February	1		February		
March	0		March		
April	0		April		
May	1		May		
June	0		June		
July	0		July		
August	1		August		
September	0	0	September		
October	0		October	+	
November	3		November	 	0.0
December	0		December		
Total for 2010	7		Total for 2013	0	0

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Title Insurance Investigations

Open and Closed Per Month Report

	sport .		P		
	Opened	Closed		Opened	Closed
January	7		January	6	4
February	20		February	5	5
March	11		March	14	13
April	19		April		
May	20	7	May		
June	20		June		
July	26	17	July		
August	24	21	August		
September	15		September		
October	14	15	October		
November	25		November		
December	11		December		
Totals for 2008	212		Totals for 2011	25	22
January	8		January		
February	13		February		
March	4		March		
April	10		April		
May	5	5	May		
June	16		June		
July	6		July		
August	15		August		
September	31		September		
October	20		October		
November	7		November		
December	10		December		
Totals for 2009	145	177	Totals for 2012	0	0
January	10		January		
February	7	22	February		•
March	17	17	March		
April	2		April		
May	3	15	May		
June	23	22	June		
July	0		July		
August	0		August		
September	3		September		
October	5		October		
November	20		November	1	
December	16		December		
Totals for 2010	106		Totals for 2013	0	0

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Title Insurance Enforcement Report

E-Casa #	Date Opened		nforcement Report	TA SALL SALL	
E-Case #	Date Opened	Recommended Action		Action Date	Closed Date
2474	5/00/00		Prosecutor for drafting	9/8/08	
2174	5/20/08	Hearing	Respondent for signature	6/23/10	
			Hearing rescheduled for April		
2004		22 27 70002	Prosecutor for drafting		
2331	12/22/08	Default Revocation	Respondent for signature		
			Revocation		9/16/2010
	277202	22.25	Under Review	5/31/10	
2405	4/15/09	Appeal Reversed	Awaiting Fine	12/14/10	
			Fine \$1000, 6 mos prob.	pd addl \$1000	2/14/2011
	222	220 90 00	Prosecutor for drafting	6/9/10	
2423	5/14/09	Complaint	Hearing		
			Dismissed	9/23/10	9/23/2010
575-567			Sent to Respondent	9/30/09	
2521	9/23/09	Informal Action	Order to show cause	3/2/10	
			Additional Fine	3/31/10	7/
		110	Prosecutor for drafting	4/8/10	
2548	10/26/09	Dismissed	Respondent for signature		
			Dismissed	9/29/10	9/29/2010
	3.0		Prosecutor for drafting	4/8/10	0/20/2010
2549	10/26/09	Dismissed	Respondent for signature		
		All and the second seco	Dismissed		9/29/2010
	100		Prosecutor for drafting	5/17/10	0/20/2010
2564	11/5/09	Stipulation and Order	S&O offer \$5000	9/23/10	
			1/2 fine paid	2/9/11	
2566	11/9/09	Stipulation and Order	S&O Mailed to new address	11/23/10	
		0	Revocation drafted	3/3/11	
			Sent to Respondent	2/4/10	
2572	11/17/09	Hearing	Hearing set	8/2/10	
		5.	Fine Paid	11/9/10	11/9/2010
			Prosecutor for drafting	12/22/09	11/0/2010
2598	12/22/09	Stipulation and Order	Complaint Mailed	2/15/11	
		A 55	Hearing	3/22/11	
		****	Sent to Respondent	2/4/10	
2621	1/12/10	Dismissed	Pre-hearing set	8/10/10	
1300000	.210.32.335.5		Dismissed	9/14/10	9/14/2010
0000	12.12.22.22.2		Sent to Respondent		9/14/2010
2623	1/12/10	Complaint	Withdrawn	2/4/10	
			THEOLOGICA	7/1/10	7/1/2010
				The state of the s	7/1/2010

Title Insurance Enforcement Report

E-Case #	Date Opened	Recommended Action	Action taken	Action Date	Closed Date
			Sent to Respondent	2/4/10	The second secon
2624	1/12/10	Complaint	Default Order	9/20/10	
			Collection Itr sent	12/29/10	
			Prosecutor for drafting	3/4/10	

2637	2/18/10	Stipulation and Order	Respondent for signature	4/19/10	
			Penalty imposed by commission	Paid	9/2/2010
		2000	Prosecutor for drafting	4/20/10	
2638	2/18/10	Complaint	Notice of hearing 10/19	9/14/10	
			Fine \$500 Pd	12/13/10	12/13/2010
	SULTA SERVICE		Prosecutor for drafting	3/15/10	
2651	3/11/10	Stipulation and Order	Respondent for signature	4/26/10	
			Fine received	7/21/10	7/21/2010
	31 11 11 11 11		Sent to Respondent	4/12/10	
2659	3/24/10	Complaint	Hearing scheduled	6/22/10	
			Signed by Judge	Revoked	7/12/2010
2664	4/1/10	Complaint for revocation	Sent to Respondent		
2004	4/1/10	Complaint for revocation	Warning Letter	Closed	12/2/2010
2687	6/2/10	Informal Action	Sent to Respondent		
2007	0/2/10	miormal Action	Docs received	Closed	11/10/2010
2701	6/2/10	Informal Action	Sent to Respondent	7/7/10	
2701	6/2/10	Informal Action	Accepted by respondent	7/14/10	7/14/2010
2702	6/2/10	Informal Astino	Sent to Respondent	7/7/10	.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
2/02	6/2/10	Informal Action	Last pmt made	9/20/10	9/22/2010
2703	6/2/40	Information in	Resent to Respondent	9/20/10	0/22/2010
2703	6/2/10	Informal Action	Returned mail no forwarding	12/6/10	Z
			Sent to Respondent	9/8/10	
2704	7/7/10	Stipulation and Order	S&O received	9/13/10	
		77	5th of 10 was paid	3/7/11	
			Sent to Respondent	8/31/10	
2718	8/24/10	Informal Action	Fine Paid \$1750	9/16/10	
					9/16/2010
2734	11/2/10	Stimulation 4 O. 4	Mailed S&O	12/13/10	
2134	11/2/10	Stipulation and Order	Complaint drafted for non-signature S&C	3/17/11	
2769	1/20/11	Stipulation and Order	Galo for signature	0/04/44	
2.00	1/20/11	Supulation and Order	Gale for signature	3/31/11	
			Sent to Respondent	3/8/11	
2778	2/1/11	Stipulation and Order	Gale for signature	3/21/11	
			Fine \$1500/in 3 pmts		
	5250 4740		to Gale	3/16/11	
2812	3/16/11	Complaint			
	NAME OF STREET		To Gale	3/16/11	
2813	3/16/11	Complaint			
			Public Letter of Admonition	3/29/11	
2822		Informal Action			
					3/29/2011

M. GALE LEMMON #4363 Assistant Attorney General MARK L. SHURTLEFF #4666 Attorney General Attorneys for Utah Insurance Department 160 East 300 South, Fifth Floor P.O. Box 140874 RECEIVED

MAR 2 1 2011

UTAH STATE
INSURANCE DEPT

Salt Lake City, UT 84114-0874

Telephone: 801.366.0375

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

STIPULATION AND ORDER

UTAH INSURANCE DEPARTMENT

Docket No.

RESPONDENT:

Enf. Case No. 2778

HOME ABSTRACT & TITLE CO. INC. 2380 Washington Blvd., Suite 200 Ogden, UT 84401-1535 License No. 1254

STIPULATION

- 1. Respondent, Home Abstract & Title Co. Inc. is a licensed title insurance agency in the State of Utah, holding License No. 1254.
- 2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
 - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
 - b. Respondent admits the Findings of Fact and Conclusions made therefrom;
 - c. Respondent stipulates to the summary entry of the Order herein which

shall be in lieu of other administrative proceedings by Complainant in this matter; and

- d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.
- 3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.
- 4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.
- 5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.
- 6. Respondent acknowledges that the issuance of this Order by the Commission is solely for purpose of disposition of the matter entitled herein.

DATED this 15^{14} day of MAYCH, 2011.

HOME ABSTRACT & TITLE CO INC

Russell C. Maughan, President

UTAH INSURANCE DEPARTMENT

M. Gale Lemmon

Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

- 1. On or about November 8, 2010, the Department produced a list of all agency and individual title producers who had reinstated their licenses during the month of October, 2010. In reviewing and comparing the list with SIRCON Licensing, the data revealed that Respondent Home Abstract & Title Co. Inc.'s agency license and all Respondent's appointments and associations lapsed on September 30, 2010. Respondent's license was reinstated on October 18, 2010.
- 2. On November 30, 2010, a Market Conduct examiner sent a letter to Respondent requesting a narrative statement regarding any title business conducted between October 1, 2010 and October 18, 2010.
- 3. On or about December 20, 2010, Russell C. Maughan responded with a written statement that Respondent had conducted 8 closings between October 1, 2010 and October 18, 2010, while the agency's license was lapsed.
- 4. Respondent Home Abstract & Title Co. Inc's. owner Russell C. Maughan agreed to entering into a stipulation agreement acknowledging his lapse, accepting full responsibility and agreeing to the proposed penalty.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

- 1. Utah Code Ann. § 31A-23a-103 states:
 - (1) (a) Unless exempted from the licensing requirement under Section 31A-23a-201 or 31A-23a-207, a person may not perform, offer to perform, or advertise any service as a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary in Utah, without a valid individual or agency license issued under this chapter.
- 2. Utah Code Ann. § 31A-23a-408 states:

No person may represent himself as acting in behalf of an insurer unless a written agency contract is in effect giving the person authority from the insurer and the insurer has appointed that person to act in behalf of the insurer.

- 3. Respondent violated the above provisions by conducting 8 closings between October 1, 2010 through October 18, 2010 without an active license, an appointment by an insurer.
- 4. An administrative forfeiture in the amount of \$1500.00 to be paid in three monthly installments and probation for a period of 12 months is appropriate under the circumstances of this case.

RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent Home Abstract & Title Co. Inc. shall prepare and submit to the Department a comprehensive business plan outlining specific policies and procedures regarding future timely renewal of its agency license.

- 2. Respondent be assessed an administrative forfeiture in the amount of \$1500.00. This forfeiture shall be paid in three installments of \$500.00 dollars each, the first being due 30 days after issuance if this order, the second being due 60 days after issuance of this order, and the third being due 90 days after issuance of this order.
- 3. Respondent shall be placed on probation for a period of twelve months. The terms of probation are that Respondent shall make the forfeiture payments in a timely manner and shall have no further violations of the Utah Insurance Code, Department Rules or any order of the Commissioner.

DATED this ZZ ad day of March , 2011.

NEAL T. GOOCH Insurance Commissioner

MARK E. KLEINFIELD

Administrative Law Judge Utah Insurance Department

State Office Building, Room 3110

Salt Lake City, Utah 84114 Telephone: (801) 538-3800

ADOPTION OF RECOMMENDED ORD	DER AND IMPOSITION IF PENALTY
By a vote of to, taken in open meeting	g on this date, the Title and Escrow
Commission hereby adopts the recommended orde	er of the Presiding officer and imposes the
penalty recommended above.	
DATED this day of	, 2011.
JERR	Y HOUGHTON, Chairman

NOTIFICATION

Title and Escrow Commission

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose penalties of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874
Telephone (801) 366-0375



BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

SUMMIT ESCROW & TITLE INSURANCE AGENCY, LLC 1500 Kearns Blvd., Suite E-100 P.O. Box 503 Park City, UT 84060 License No. 90558 STIPULATION & ORDER

Docket No.

Enf. Case No. 2598

STIPULATION

- 1. Respondent, Summit Escrow & Title Insurance Agency, LLC, is a licensed title insurance agency in the State of Utah, holding License No. 90558.
 - 2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
- a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;

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- b. Respondent admits the Findings of Fact and Conclusions made therefrom;
- c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.
- 3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.
- 4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.
- 5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.
- 6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this $24^{\frac{1}{12}}$ day of M arch , 2011.

SUMMIT ESCROW & TITLE INSURANCE AGENCY, LLC

(John Hanlon, Esq., Member

UTAH INSURANCE DEPARTMENT

M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

- 1. On or about November 30, 2009, Summit Escrow & Title Insurance Agency, LLC ("Summit"), acting as an escrow agent conducted a split closing for property located in Kamas, Utah, Summit's file no. 09-11-027.
 - 2. Summit represented the buyer in the closing which was a cash closing with no lender.
 - 3. Summit did not issue a policy of title insurance in connection with this closing.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. In conducting an escrow closing without issuing a policy of title insurance, Summit violated Utah Code Annotated § 31A-23a-406(1).

Based upon the foregoing Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Recommended Order:

RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

- 1. Summit Escrow & Title Insurance Agency, LLC be assessed an administrative forfeiture in the amount of \$1,000.00, to be paid within 30 days of the adoption of this penalty by the Title and Escrow Commission.
- 2. The license of Summit Escrow & Title Insurance Agency, LLC be placed on probation for a period of 6 months beginning with the date of the adoption of this penalty by the

Title and Escrow Commission. The terms of probation are that Summit shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner.

数:

DATED this ______, 2011.

Cortlund G. Ashton, Chairman Title and Escrow Commission

NOTIFICATION

Respondent is hereby notified that failure to abide by the terms of this Order may subject you to further penalties, including additional forfeitures of up to \$5,000.00 per violation and the suspension or revocation of your license, and the filing of an action to enforce this Order in the

District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874

Telephone: 801.366.0375

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

NATIONAL TITLE AGENCY 5295 S. Commerce Drive #259 Murray, UT 84107 License No. 245855

STIPULATION AND ORDER

Docket No.

Enf. Case No. 2769

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UTAH STATE INSURANCE DEPT.

STIPULATION

- 1. Respondent, National Title Agency is a limited liability company organized in the State of Utah and a licensed title insurance agency in the State of Utah, holding License No. 245855.
- 2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
 - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
 - b. Respondent admits the Findings of Fact and Conclusions made therefrom;

c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

DATED this 30 day of MARCH, 2011.

NATIONAL TITLE AGENCY

William D. Rowley, Member/Manager

UTAH INSURANCE DEPARTMENT

M. Gale Lemmon

Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

- 1. On or about December 1, 2010, the Department produced a list of all agency and title producers who had reinstated their licenses during the month of November, 2010. In reviewing and comparing the list with SIRCON Licensing, the data revealed that Respondent National Title Agency's license and all Respondent's appointments had lapsed on August 31, 2010. Respondent's license was not reinstated until November 18, 2010.
- On November 30, 2010, a Market Conduct examiner sent a letter to Respondent requesting a narrative statement regarding any title business conducted between August 31, 2010 and November 18, 2010.
- 3. On or about January 10, 2011, Bill Rowley responded with a written statement that National title Agency had conducted 69 closings between August 31, 2010 and November 18, 2010.
- 4. On January 18, 2011, Respondent signed a stipulation agreement, acknowledged his lapse of license and accepted full responsibility for complying with statutory licensing renewal provisions, and agreed to the recommended forfeiture.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Ann. § 31A-23a-103 states:

- (1) (a) Unless exempted from the licensing requirement under Section 31A-23a-201 or 31A-23a-207, a person may not perform, offer to perform, or advertise any service as a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary in Utah, without a valid individual or agency license issued under this chapter.
- (b) A valid license includes at least one license type and one line of authority pertaining to that license type.
- © A person may not utilize the services of another as a producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary if that person knows or should know that the other does not have a license as required by law.
- (2) This part may not be construed to require an insurer to obtain an insurance producer license.
- (3) An insurance contract is not invalid as a result of a violation of this section.
- 2. Utah Code Ann. § 31A-23-302(1) requires an agency designation:
 - (1) An agency shall designate an individual that has an individual producer, limited line producer, customer service representative, consultant, managing general agent, or reinsurance intermediary license to act on the agency's behalf in order for the licensee to do business for the agency in this state. . . .
- 2. Utah Code Ann. § 31A-23a-408 states:

No person may represent himself as acting in behalf of an insurer unless a written agency contract is in effect giving the person authority from the insurer and the insurer has appointed that person to act in behalf of the insurer.

- 3. Respondent violated the above provisions by conducting 69 closings between September 1, 2010 through November 18, 2010 without an active license, appointment or association.
- 4. An administrative forfeiture in the amount of \$5,000.00 and probation for a period of 12 months is appropriate under the circumstances of this case.

RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

- 1. Respondent be ordered to prepare and submit to the Department a comprehensive business plan outlining specific policies and procedures regarding future timely renewal of its agency license.
- 2. Respondent National Title Agency shall be assessed an administrative forfeiture in the amount of \$5,000.00, to be paid within 30 days of the imposition of the penalty by the Title & Escrow Commission.
- 3. Respondent shall be placed on probation for a period of twelve months. The terms of probation are that Respondent shall have no further violations of the Utah Insurance Code, Department Rules or any order of the Commissioner.

DATED this <u>30</u> day of <u>MADCH</u>, 2011.

NEAL T. GOOCH Insurance Commissioner

MARK E. KLEINFIELD

Administrative Law Judge Utah Insurance Department

State Office Building, Room 3110

Salt Lake City, Utah 84114

Telephone: (801) 538-3800

ADOLITON OF RECOMMEN	DED ORDER AND IMPOSITION IF PENALTY
By a vote of to, taken in o	pen meeting on this date, the Title and Escrow
Commission hereby adopts the recomm	nended order of the Presiding officer and imposes the
penalty recommended above.	
DATED this day of	, 2011.
	Chairman

ADOPTION OF DECOMMENDED ORDER AND TOTAL

NOTIFICATION

Title and Escrow Commission

You are further notified that a failure to obey an Order of the commissioner may subject you to further penalties, including forfeitures of up to \$5,000.00 per violation and the suspension or revocation of your license and the filing of an action to enforce this Order in District Court, which may impose forfeitures of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

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UTAH STATE INSURANCE DEPT.

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone: (801) 538-3872

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

TYLER CISNEROS 3526 S. 2700 E. Salt Lake City, UT 84109 License No. 193831

STIPULATION AND ORDER

Docket No. 2011-035 PC

Enf. Case No. 2566

STIPULATION

- 1. Respondent, Tyler Cisneros is a licensed title insurance agent in the State of Utah, holding License No. 193831.
- 2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
 - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
 - Respondent neither admits nor denies the Findings of Fact and
 Conclusions made therefrom;

c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for purpose of disposition of the matter entitled herein.

DATED this 315T day of MARCH, 2011.

TYLER CIŚNEROS, Licensee

UTAH INSURANCE DEPARTMENT

M. Gale Lemmon

Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

- 1. On or about May 2006, Respondent prepared an estimated HUD-1 Settlement Statement that was submitted to Litton Loan Servicing ("Litton") for short sale approval and was based on a purchase contract for real property located in the State of Utah from Harley & Deann Heward ("the Hewards") to FAT Enterprise, Inc. ("FAT") indicating a sales price of \$549,900.
- 2. On or about June 6, 2006, Litton, in reliance on the information received, prepared instructions as to their terms of acceptance for the short sale. According to those terms, the net proceeds were to be no less than \$535,000, with approval of \$1,000 to the second mortgage holder. No other buyers were approved.
- 3. On or about July 27, 2006, Litton updated their short sale approval letter accepting no less than \$538,675.64 as net proceeds, with all other elements remaining the same.
- 4. On or about August 11, 2006, Respondent prepared a fully executed (signed) "Final" HUD-1 Settlement Statement for the short sale from the Hewards to FAT, showing a sales price of \$549,900, representing that he had closed and settled the transaction, when in fact he had not, said HUD-1 Settlement Statement was provided to Litton. Based on that "Final" HUD-1 Settlement, Litton believed the short sale transaction was complete.
- 5. Unknown to Litton at the time, but known to the Respondent, the Hewards had quit claimed the subject property to FAT on or about January 28, 2006, and had no interest in the property. The HUD-1 submitted to Litton was fictitious and was only a device to induce Litton to accept a short sale price lower than the actual transaction that was used to obtain funds to pay

Litton its short sale proceeds.

- 6. The actual transaction occurred on or about August 11, 2006, where Respondent prepared a HUD-1 and closed a real estate transaction for the same property with FAT as the seller and Deborah Ward ("Ward") as the buyer with a sales price of \$595,000.
- 7. Funding for the FAT to Ward transaction occurred on August 14, 2006, and the funds received from this sale were used to pay Litton its short sale proceeds, disbursements not authorized by Litton for additional payoff to the second mortgage holder, and profits to FAT.
- 8. The actual transaction involving the real estate for which Litton was the lender closed at a higher price than represented to Litton, thus depriving Litton of an additional \$46,000 in additional monies for payoff.
- 9. The Respondent cooperated with both the Market Conduct Division and the Fraud Division in their respective investigations.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

- 1. Utah Code Ann. § 31A-23a-402 states:
 - (1)(a)(I) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer or licensee under this title, including information that is false or misleading because it is incomplete.
- 2. Utah Code Ann. § 31A-23a-107 addresses character requirements and states that each applicant for a license chapter shall show to the commissioner that he/she is competent and

trustworthy.

- 3. By allowing a false HUD-1 statement to be submitted to a lender in a real estate transaction, Respondent violated the above statutes.
- 4. By conducting an escrow and settlement with disbursements contrary to the lender's instructions, Respondent violated the above statutes.
- 5. Respondent's license should be revoked pursuant to Utah Code Ann. § 31A-23a-111(5)(b)(I), is unqualified to hold a license; -111(5)(b)(ii)(A), has violated an insurance statute, and -111(5)(b)(xiv), in the conduct of business demonstrates incompetence or untrustworthiness.

RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

- 1. Respondent, Tyler Cisneros' title insurance license be revoked forthwith.
- 2. Respondent cease doing any title or escrow business in the State of Utah.

DATED this 6 day of April , 2011.

NEAL T. GOOCH Insurance Commissioner

MARK E. KLEINFIELD

Administrative Law Judge Utah Insurance Department

State Office Building, Room 3110

Salt Lake City, Utah 84114 Telephone: (801) 538-3800 R5902. Insurance, [Administration] Title and Escrow Commission.
R590-99. Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices.

[R590-99]R592-14-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to [the general authority vested in the commissioner by Section 31A-2-404(2).201(2)(3) to make reasonable rules necessary for, or as an aid to, the effectuation of any provision of the Utah Insurance Code, and pursuant to the specific authority of Section 31A 23a 402 allowing the commissioner to prescribe a classification of material inducements constituting unlawful trade practices, and to define unfair or deceptive acts or practices prohibited in the business of insurance.]

[R590-99]R592-14-2. Purpose and Scope.

[Title insurance is designed to provide indemnification against loss, including a loss resulting from a determination of unmarketability of the insured's interest in real property. The burden of proving any loss, together with the measure of damages, is the obligation of the insured. Normally, a claim of unmarketability of title or a claim involving a "defect, lien or encumbrance" not excluded from coverage will arise in connection with a proposed sale or loan requiring a review of the insured property as to current marketability. The insured owner, as a potential seller or borrower, may then be placed in the position of being forced or coerced into dealing only with his prior insurer or agent purely as the result of time constraints in meeting the requirements of his transaction, and as the only practical alternative to processing his claim and proving his damage as an insured under his existing coverage. The commissioner is advised and is aware that, in some instances, this circumstance has resulted from the] (1) The purpose of this rule is to prohibit intentional delay, neglect or refusal by insurers, through their agents, to record or deliver for recording documentation necessary to support policy provisions, resulting in the false appearance unmarketability, in the record only, of property which would otherwise be marketable. This practice is deemed to be an unfair or deceptive act or practice detrimental to free competition in the business of insurance and injurious to the public.

(2) This rule applies to all title insurers and producers.

[R590-99]R592-14-3. Definitions.

For the purpose of this rule, the [commissioner]Commission adopts the definitions as particularly set forth in Section 31A-1-301 and in addition the following:

- A. "Document" means any instrument in writing relating to real property described in any title insurance policy, contract or commitment, and reasonably required for the support of the insuring provisions.
- B. "Record" means to cause to be delivered to the county recorder, or other public official as may be appropriate, any document in the possession or control of any title insurance company or title insurance agent for which a request to record has been made by an insured party.

[R590-99]R592-14-4. Definition and Classification of Unfair or Deceptive Practices and Material Inducements.

- A. Any knowing conduct by a title insurance company or title insurance agent which results in the failure, neglect, refusal to record, or to obtain for recording, any document which, unless recorded, results in the apparent unmarketability of title or a title which may not be insurable by another insurer, is defined as an unfair or deceptive act or practice as prohibited by Section 31A-23a-402.
- B. The issuance or agreement to issue title insurance, or the affirmation of current marketability of title, when the possible recording of documents of title has not occurred, and the record does not manifest a title which would be insurable according to generally accepted title insurance standards, is classified and proscribed as an advantage and material inducement to obtaining title insurance business as prohibited under Section 31A-23a-402(2)(c)(i)(D).

R592-14-5. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

[R590-99-5]R592-14-6. Severability.

If any provision or clause of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances may not be affected by it.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: [1994]2011

Notice of Continuation: January 27, 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-[201]404;

[31A-23-302]

- R592.15 Insurance, Title and Escrow Commission.
- R592-15. Submission of a Schedule of Minimum Charges for Escrow Services.

R592-15-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404 which requires the Commission to make rules related to title insurance.

R592-15-2. Purpose and Scope.

- (1) The purpose of this rule is to establish the procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.
- (2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

R592-15-3. Required Documents.

- (1) The department requires that the documents described in this section shall be used for all filings, and are available on the department's web site, http://www.insurance.utah.gov.
- (a) "Transmittal Document for Title Agency or Title Producer"; and
 - (b) "Schedule of Minimum Charges for Escrow Services."

R592-15-4. Definitions.

- In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule.
- (1) "Additional escrow services" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum Charges for Escrow Services.
- (2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.
- (3) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.
- (4) "Document preparation" means the preparation or compilation of documents in connection with escrow services.
 - (5) "Electronic filing" means:
- (a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or
- (b) a filing submitted via an email system by a title insurance agency or an individual title insurance producer not designated to a title insurance agency.
- (6) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow services.
- (7) "Escrow services" means those services related to settlements of real estate transactions.
- (8) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.
- (9) "File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.
 - (10) "Filer" means a person or entity who submits a filing.
- (11) "Filing Objection Letter" means a letter issued by the

commissioner when a review has determined the filing fails to comply with Utah law and rules. The Filing Objection Letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(12) "Letter of Authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted and which designates filing authority to the filer.

(13) "Long-term escrow" means a "For Benefit Of" (FBO) account that is for the purpose of payment collection and administration of seller-financed transactions, as described by an escrow agreement.

- (14) "Mini escrow" means an escrow settlement service conducted by a title agency to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.
- (15) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services that are rendered.

(16) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

- (17) "Other settlement services" means additional services not specifically listed in the Schedule of Minimum Charges for Escrow Services.
 - (18) "Rejected" means a filing is:
 - (a) not submitted in accordance with Utah laws and rules;
- (b) returned to the filer by the department, with the reasons for rejection; and
 - (c) not considered filed with the department.

R592-15-5. General Filing Information.

- (1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.
- (2) Licensees are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.
- (3) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing:
 - (a) is not considered filed with the department;
 - (b) must be submitted as a new filing; and
 - (c) will be charged a new filing fee.
- (4) Prior filings will not be researched to determine the purpose of the current filing.
 - (5) The department does not review or proofread every filing.
 - (a) A filing may be reviewed:
 - (i) when submitted;
 - (ii) as a result of a complaint;
 - (iii) during a regulatory examination or investigation; or
 - (iv) at any other time the department deems necessary.
- (b) If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order to Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in rating practices to affected consumers.
 - (6) (a) Filing corrections are considered informational.
- (b) Filing corrections must be submitted within 15 days of the

- date the original filing was submitted to the department. The filer must reference the original filing.
- (c) A new filing is required if a filing correction is made more than 15 days after the date of the original filing was submitted to the department. The filer must reference the original filing.
- (7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R592-15-9
- (8) A filer must notify the department when withdrawing a previously filed rate.

R592-15-6. Filing Requirements.

- (1) Only an individual who is authorized to act on behalf of the insurer, agency or producer can submit a filing.
- (2) (a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day the initial schedule is filed.
- (b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:
- (i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or
- (ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.
 - (3) All filings must be submitted as an electronic filing via:
 - (a) email; or
 - (b) SERFF.
- (4) Email Filing: A complete email filing consists of the following:
- (a) an email with a title showing the name of the filer and stating that it is an escrow rate filing;
- (b) Utah Transmittal Document for Title Agency or Title Producer, completed and containing the following items in the following order:
- (i) completed filing description, contained in Section 9 of the transmittal document, with the following information presented in the order shown.
 - (A) Certification.
- (I) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.
- (II) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".
- (III) A filing will be rejected if the certification is false, missing, or incomplete.
- (IV) a certification that is false may subject the licensee to administrative action.
 - (B) Indicate if the filing is:
 - (I) new;
- (II) replacing or modifying a previous submission, with changes described;
- (III) previously rejected, with reasons for rejection and previous filing's submission date; or
- (IV) previously objected to or prohibited, with reasons for

resubmission.

- (c) Schedule of Minimum Charges for Escrow Services, completed as follows:
 - (i) all blank fields must be completed;
- (ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and
- (iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.
 - (d) Letter of Authorization.
- (i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.
- (ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.
- (e) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.
- (5) SERFF Filing. A complete SERFF filing consists of the following:
- (a) The completed description section on the general information tab, presented in the order shown below.
 - (i) Certification.
- (A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.
- (B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".
- (C) A filing will be rejected if the certification is false, missing, or incomplete.
- (D) A certification that is false may subject the licensee to administrative action.
 - (ii) Indicate if the filing is:
 - <u>(A) new;</u>
- (B) replacing or modifying a previous submission, with changes described;
- (C) previously rejected, with reasons for rejection, and previous filing's submission date; or
- (D) previously objected to or prohibited, with reasons for resubmission.
- (b) Schedule of Minimum Charges for Escrow Services completed as follows, and attached to the rate/rule schedule tab:
 - (i) all blank fields must be completed;
- (ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and
- (iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.
 - <u>(c) Letter of Authorization.</u>
- (i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.
- (ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.
- (d) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.

R592-15-7. Charges.

- (1) Escrow Service Charges.
- (a) In accordance with subsection 31A-19a-209(3), no charge may be filed or used that would cause the agency or producer to operate at less than the cost of doing the business of escrow.
- (b) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.
 - (2) Other Settlement Services Charges.
- (a) other settlement services charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.
- (b) other settlement service charge must be filed as a per hour charge.
 - (3) Document Preparation Charge.
- Only document charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.
- (4) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow services may be rendered provided a justifiable charge is made.

R592-15-8. Correspondence and Status Checks.

- (1) When corresponding with the department, provide the following information to identify the original filing:
 - (a) type of filing;
 - (b) date of filing; and
 - (c) submission method; SERFF or email.
- (2) A filer can request the status of its filing 60 days after the date of submission.

R592-15-9. Responses.

- (1) A response to a Filing Objection Letter must include:
- (a) a cover letter identifying the changes made; and
- (b) revised documents with all changes highlighted.
- (2) (a) An Order to Prohibit Use becomes final 15 days after the date of the Order.
- (b) Use of the filing must be discontinued not later than the date specified in the Order.
- (c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.
- (d) Once the Order to Prohibit Use has been issued, a new filing is required if the company chooses to make the requested changes addressed in the original Filing Objection Letter. The new filing must reference the previously prohibited filing.

R592-15-10. Penalties.

A person found to be in violation of this rule shall be subject to penalties under Section 31A-2-308.

R592-15-11. Enforcement Date.

The commissioner will begin enforcing this rule 15 days from the effective date of this rule.

R592-15-12. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: title escrow filings

2011

31A-2-404

R592. Insurance, Title and Escrow Commission.

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

R592-6-4. Unfair Methods of Competition, Acts and Practices.

In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties identified in Section R592-6-2 to any client, either directly or indirectly, except as specifically allowed in Section R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition.

- (1) The furnishing of a title insurance commitment without one of the following:
- (a) sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or
- (b) payment in full at the time the title insurance commitment is provided.
- (2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.
 - (3) Furnishing escrow services pursuant to Section 31A-23a-406:
- (a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or
- (b) the filing of charges for escrow services with the Utah Insurance Commissioner (commissioner), which are less than the actual cost of providing the services.
- (4) Waiving all or any part of established fees or charges for services which are not the subject of rates or escrow charges filed with the commissioner.
- (5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.
- (6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.
- (7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space which is occupied by any client.
- (8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.
- (9) Furnishing any part of a title insurer's, title agency's, or title producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association, for anything other than the providing of escrow or title services, or meetings related to such, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.
- (10) The co-habitation or sharing of office space with a client of a title insurer, title agency, or title producer.

- (11) Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency or producer, for example, secretary, clerk, messenger or escrow officer, to any client.
- (12) Paying for all or any part of the salary of a client or an employee of any client.
- (13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.
- (14) Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, or for the pre-payment of fees and charges of a client or party to the transaction, for example subordination, loan or HOA payoff request fees, whose services are required by any party or client to structure or complete a particular transaction. This subsection does not include the pre-payment of overnight delivery/mail fees that will be recovered through closing of a transaction.
- (15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5(6). Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.
- (16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5(2) or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, and provided that these fees are no greater than those charged to clients or others attending the function.
- (17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as providing a thing of value.
- (18) Furnishing or providing access to the following, even for a cost:
 - (a) building plans;
 - (b) construction critical path timelines;
 - (c) "For Sale by Owner" lists;
 - (d) surveys;
 - (e) appraisals;
 - (f) credit reports;
 - (g) mortgage leads for loans;
 - (h) rental or apartment lists; or
 - (i) printed labels.
- (19) Newsletters cannot be property specific or cannot highlight specific customers.

- (20) A title insurer, agency or producer cannot provide a client access to any software accounts that are utilized to access real property information that the insurer, agency or producer pays for, develops, or pays to maintain. Closing software is exempt as long as it is used for a specific closing.
- (21) (a) A [person, as defined in 31A 1 301, or individual affiliated with a]title insurer, agency or producer cannot provide [a loan or any type of financing to a client of title insurance.]title or escrow services on real property where an investment loan or financing has been provided by said title insurer, agency or producer, including its owners, employees, or affiliates.
 - (b) Subsection (21)(a) does not apply to such transactions:
- (i) involving seller financing of primary or secondary residences;
- (ii) involving commercial office property owned and maintained by those persons or entities described in (a) herein;
 - (iii) obtained through a trustee's sale; or
 - (iv) re-acquired by the original owner by a stated default.
 - (22) Paying for any advertising on behalf of a client.
- (23) Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.
- (24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.
- (25) A donation may not be made to a charitable organization created, controlled or managed by a client.
- (26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).
- (27) Title insurers, agencies and producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: [June 25, 2009] 2010 Authorizing, and Implemented or Interpreted Law: [31A-2-201; 31A-2-3a-402] 31A-2-404

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Bartlett, Jon

From: Bartlett, Jon

ent: Friday, April 08, 2011 6:43 PM

Cort@cottonwoodtitle.com; Canyon Anderson; Jerry Houghton

Cc: Webber, Mark; Whitney, Ray; Bell, Connie; Peterson, Keith (UT); Bartlett, Jon; Sager,

Matthew

Subject: Search & Examination

Respected Members of the Title Commission:

First American respectfully submits its comments and suggestions to the proposed Search and Exam Rule.

We would greatly appreciate the opportunity to explain these comments in further detail as it is difficult to adequately address the issues regarding the proposed rule by email. Admittedly, the industry and the Commission is faced with the herculean task of trying to quantify and set search and examination parameters. This is difficult to properly address within the proposed rule. The search and examination procedures in the industry have been developed and established through our years of claims experience and from trial and error for transactions not only in Utah but also across the country. The search and examination procedures within the industry have adapted such that we are able to provide an array of products. Certain products may contain low risks which allow us to provide and produce these products at a reasonable cost. First American and others within the industry have spent millions in this process. We have made some mistakes but we certainly have done things right and throughout all of this, we provide an important service. We are confident that this process of evaluating and providing a better method of searching and examining will continue to improve. With that said, please consider the following comments related to the proposed rule:

- R592-??-4 (1): The title insurance industry in Utah has always allowed newly hired people that are new to the idea of title insurance to search titles under the supervision of a licensed Resident Producer. As a searcher advances and obtains more understanding and experience, there is less need for supervision. At some point, after years of experience, a searcher may get licensed. There is a time where a searcher can, with the confidence of their employer, search and examine a title without any supervision at all. I believe that it is sound practice to have licensed supervisor available to all searchers. First American would not object to Subsection (1) provided that the definition of "supervision" does not require that the supervisor review every commitment produced by a non-licensed searcher-examiner. Any requirement that a licensed supervisor would have to review a commitment would add needless cost to the production of the commitment. Consequently, these increased costs would be passed on to the public.
- R592-??-4 (2): First American's comments to subsection (2) are identical to those made for Subsection (1).
- R592-??-4 (3): It is the common and accepted practice that a title insurance policy is not signed. Adding the requirement that a policy, or endorsement have a wet signature would require that title agencies and companies re-tool and rearrange their current system of providing policies. This would add unnecessary costs to the production of policies. First American respectfully asks the Commission to consider only the requirement that that the policy be reviewed by a licensed title producer and not countersigned.
- R592-??-4 (3): This paragraph should also include and address "guarantees" since they are an insurance product and should be reviewed by a licensed title producer. First American also suggests that the word "report" be changed to "commitment."
- R592-??-4 (4): The 2011 legislative session produced a change in the Marketable Record Title Act that limited what could be considered under the 40 year Marketable Record Title. We are currently trying to understand the risks and ramifications of the legislative change. We are now trying to determine what short search procedures we currently use that will have to be changed as a result of this new law. We hope that we will have the flexibility to make a full assessment of this risk and make search procedures that fit the risk. LINE 4 may require a full search of all titles back to patent if this is allowed to remain in rule.

- R592-??-4 (4): First American suggests excluding limited title insurance products such as the ALTA Junior Loan Policy from the minimum search and examination guidelines proposed in Subsection 4. Certain products do not insure ownership of title and should be excluded from the requirements of Subsection (4).
- R592-??-4 (5): It is the common practice within the industry to rely on starters. The proposed rule would require that a starter include "chains covering the fime frame." This requirement would practically eliminate the ability to rely on a starter unless the starter included the chain. First American suggests removing the chain of title requirement from Subsection (5)(b). Additionally, this issue is properly addressed in Subsection (5)(c) which allows for a combination of a chain and the use of a starter.
- R592-??-5: In its current form, the proposed rule would take a great deal of time and cost to implement. Enforcement of the rule within 45 days of its enactment will not give the industry enough time to complete the necessary retooling and changes required under the rule. We ask that this be changed to 6 months.

We appreciate the fine work, extra time and valiant efforts that the commission volunteers to make our industry better. We hope to offer our assistance in this work.

Respectfully,

Jon Bartlett Agency Manager First American Title 181 East 5600 South Liberty Hall, Suite 330 Murray, UT 84107

E-mail jebartlett@firstam.com none 801-261-2359 .ax 801-261-5178 Toll Free 866-778-0058

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Bartlett, Jon

crom:

Bartlett, Jon

⇒nt:

Monday, April 11, 2011 8:16 AM

10:

Bartlett, Jon; 'Cort@cottonwoodtitle.com'; 'Canyon Anderson'; 'Jerry Houghton'

Cc:

Webber, Mark; Whitney, Ray; Bell, Connie; Peterson, Keith (UT); Sager, Matthew; Poll, Roy;

Garner, Tige

Subject:

RE: Search & Examination a follow-up idea

Attachments:

Documents.pdf; Marketable Record Title Amendments.pdf

Hello,

I was thinking of a follow-up idea for the issue of the definition of "Supervise".

I would suggest that another possible way to address the issue of wanting the production of commitments supervised might be to require that the ratio of commitments supervised by one licensed title searcher be limited. For example, If a title agency has over 400 to 500 orders per month they must have a second licensed title searcher.

Let's say, for example, a small title agency has one licensed title searcher. That one searcher may be able to handle 150 orders per month. If the agency's business picked up to more than 150 orders, they may hire an untrained person to work in the title department. Within a few weeks, the new person could generate 50 orders per month with a lot of supervision. Over time though, this new unlicensed searcher may get up to 200 orders per month with very little supervision. If that happened, and the agency's business grew to more than 350 orders per month, the agency may hire another untrained title searcher. In a fairly short amount of time the 2nd new title searchers production may get up to 100 orders per month. At this point, I think that it would be advisable for the 1st unlicensed title searcher to get licensed. (somewhere in the 400 to 500 orders per month range).

I also believe that a jack-of-all-trades title industry guru can be a wonderful advisor/supervisor to a title department and ill spend most of their time working an escrow load. Examples of such gurus are many, but to name a few, (Paul Newton, Corry Clayson, Cort Ashton, Bruce Bartlett, Bill Roeder, Alan Bolt, Jerry Houghton, Nari Trotter, Jane Lancaster and many others. My point with this comment is that it should not be required that all title supervisors in an agency work solely in the title department.

Jon Bartlett
First American Title
Agency Manager
Phone 801-261-2359
Toll Free 866-778-0058

From: Bartlett, Jon

Sent: Friday, April 08, 2011 6:43 PM

To: Cort@cottonwoodtitle.com; Canyon Anderson; Jerry Houghton

Cc: Webber, Mark; Whitney, Ray; Bell, Connie; Peterson, Keith (UT); Bartlett, Jon; Sager, Matthew

Subject: Search & Examination

Respected Members of the Title Commission:

First American respectfully submits its comments and suggestions to the proposed Search and Exam Rule.

We would greatly appreciate the opportunity to explain these comments in further detail as it is difficult to adequately address the issues regarding the proposed rule by email. Admittedly, the industry and the Commission is faced with the arculean task of trying to quantify and set search and examination parameters. This is difficult to properly address within the proposed rule. The search and examination procedures in the industry have been developed and established through our years of claims experience and from trial and error for transactions not only in Utah but also across the

R592. Insurance, Title and Escrow Commission.
R592-??. Minimum Mandatory Search Standards and Requirements.
R592-??-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404(2)), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency or producer.

R592-3-2. Purpose and Scope.

- (1) The purpose of this rule is to set forth the requirements and procedures for a minimum mandatory search pursuant to Section 31A-23a-406.
- (2) This rule applies to all title insurers, agencies and producers conducting searches in which a title insurance product is to be issued for property and interests located in Utah.

R592-??-3. Definitions.

(1) "Search" means the compiling and examination of the documents in the chain of title for which a report is issued and may be relied upon for the subsequent issuance of a title insurance product or guarantee.

R592-??-4. Search Procedures and Requirements.

A search as defined in this rule shall comply with the following minimum mandatory requirements:

- 1) a search shall be conducted by or under the supervision of a licensed Resident Producer with an active sub-line for Title Search in the State of Utah;
- 2) searches shall be examined by or under the supervision of a licensed Resident Producer with an active sub-line for Title Search in the State of Utah;
- 3) title reports and subsequent policies and endorsements shall be countersigned by a licensed Resident Producer with an active sub-line for Title Search in the State of Utah;
- 4) as a minimum, a search shall be conducted to cover the time frames determine ownership and interests as outlined in Utah Code 57-9 Marketable Title;
- 5) proof of said minimum search shall be kept within or annotated within the most current file and may include one or more of the following:
 - (a) chain of title going back to the time frame;
 - (b) list of files and starters containing chains covering time frame;
 - (c) a combination of (a) and (b)

R592-??-5. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R592-??-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

S.B. 87

1	MARKETABLE RECORD TITLE AMENDMENTS
2	2011 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Stuart C. Reid
5	House Sponsor: Ryan D. Wilcox
6	
7	LONG TITLE
8	General Description:
9	This bill modifies a marketable record title provision.
10	Highlighted Provisions:
11	This bill:
12	 modifies a provision indicating interests and rights that marketable record title
13	provisions may not be applied to bar or extinguish;
- 14	 expands a provision prohibiting the extinguishment of certain easement rights to
15	apply to any right, title, or interest;
16	 expands a provision prohibiting the extinguishment of specified state property to
17	apply to any right, title, or interest of the state or political subdivision of the state;
18	and
19	 makes technical changes.
20	Money Appropriated in this Bill:
21	None
22	Other Special Clauses:
23	None
24	Utah Code Sections Affected:
25	AMENDS:
26	57-9-6, as last amended by Laws of Utah 1999, Chapter 241
27	
28	Be it enacted by the Legislature of the state of Utah:
29	Section 1. Section 57-9-6 is amended to read:

S.B. 8	37
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Enrolled Copy

30	57-9-6. Applicability of provisions.
31	This [act] chapter may not be applied to [bar]:
32	(1) [any] bar a lessor or [his] the lessor's successor as a reversioner of [his] the right to
33	possession on the expiration of any lease; [or]
34	(2) extinguish any [easement or interest in the nature of an easement] right, title, or
35	interest created or held for any pipeline, highway, railroad or public utility purpose[, or any];
36	(3) extinguish an easement or interest in the nature of an easement, the existence of
37	which is clearly observable by physical evidence of its use; [or]
38	[(3)] (4) extinguish any water rights, whether evidenced by decrees, by certificates of
39	appropriation, by diligence claims to the use of surface or underground water, or by water
40	users' claims filed in general determination proceedings; [or]
41	[(4)] (5) extinguish any right, title, estate, or interest in and to minerals, and any
42	development, mining, production or other rights or easements related to the minerals or
43	exercisable in connection with the minerals; [or]
44	[(5)] (6) extinguish any right, title, or interest of the state [in school or institutional
45	trust lands or sovereign lands] or political subdivision of the state; or
46	[(6)] (7) extinguish any right, title, or interest of the United States, by reason of failure
47	to file the notice [herein] required under this chapter.

Missouri

I want to refresh all agents on the title plant law in the State of Missouri. This states that a title plant must be utilized for a title search, unless no plant exists or the owner of the plant refuses to furnish the title evidence at a reasonable charge within a reasonable time. **This is for every county you write in.** Even if it is only one order a year. As an agent, your duty is to request access to the plant in each county you plan to write in. If you write or plan to write in every county in Missouri, you will need to apply for access to every plant in every county, if there is one. The Department of Insurance will be enforcing the plant law. The law reads as follows:

Insurer's duties, policies-examination of title, determination of insurability-showing of liens against title-records kept, duration -exceptions to requirements.

381.071. 1. No title insurance policy shall be written unless and until the title insurer, title agent, or agency has:

- 1. Caused a search of title to be made from the evidence prepared from a title plant of the county where the property is located as herein defined, or if no such title plant of the county exists, or the owner of such plant refuses to furnish the title insurer, title agent, or agency desiring to insure, such title evidence at a reasonable charge and within a reasonable period of time, then such policy of title insurance shall be based upon the best title evidence available. An attorney licensed to practice law in this state may upon personal inspection use the best evidence available in any county and is not subject to the provisions of the title plant requirement of sections 381.011 to 381.241. The records on which the title plant is based on shall show all prior matters affecting the title to the property or interest therein for a continuous period of time of at least:
 - 1. The past ten years, by two years after September 28, 1987;
 - 2. The past fifteen years, by three years after September 28, 1987;
 - 3. The past twenty years, by four years after September 28, 1987; and
 - 4. The past twenty-seven years, by five years after September 28, 1987; and
- 2. Caused to be made a determination of insurability of title in accordance with sound underwriting practices.